

Chapter highlights

- **Purpose:** This chapter will set forth the guidelines that agencies and institutions shall follow to promote the Commonwealth's socio-economic goals while procuring information technology (IT) and telecommunications goods and services.
- **Key points:**
 - The Governor has set a goal that the Commonwealth should make 40% of its purchases from small businesses including small businesses owned by women, minorities and service-disabled veterans.
 - VITA has developed procurement guidelines designed to encourage eligible contract users and state agencies to procure IT products and services which help to minimize the environmental impact from the use and disposal of those products.

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7.0 Introduction

The Commonwealth's procurement professionals have always used the tremendous purchasing power of the state to demand lower prices and better quality products and services. Meanwhile, the Commonwealth is also increasing its demand for cleaner or

“greener” products, for products made locally and for products manufactured or sold by small businesses. Using the considerable procurement leverage of the Commonwealth, VITA is committed to achieving the following socio-economic goals:

- Promoting the procurement of energy-saving and environmentally-friendly information technology (IT) and telecommunications products.
- Substantially increasing the procurement of recycled content products.
- Encouraging the participation of a more diverse supplier base including small businesses and small businesses owned by women, minorities, and service-disabled veterans in IT procurement transactions.
- Procuring products and services from Virginia-based businesses.

7.1 Small businesses and businesses owned by women, minorities and service disabled veterans

7.1.1 Overview

VITA is dedicated to dramatically increasing IT value to the Commonwealth by providing world-class IT goods and services at competitive prices and rates. In conjunction, VITA is committed to increasing procurement opportunities for small businesses, including but not limited to small businesses owned by women-, minority- and service disabled veteran-owned businesses, and to strengthening the Commonwealth's overall economic growth through their development. These small businesses can often provide innovative IT goods and services not readily available through larger corporations while fostering opportunities for small businesses. For more details on VITA's efforts to encourage small business participation, refer to Appendix A. Please refer to Virginia Public Procurement Act (VPPA) [§2.2-4310\(E\)](#) for definitions of small, women-, minority- and service disabled veteran-owned businesses.

7.1.2 Required agency small business plans

Each executive branch agency and institution of the Commonwealth shall prepare and adopt an annual race- and gender-neutral small business plan that specifies its small business goals for procurement in accordance with [Executive Order 33](#). Each agency or institution is responsible for submitting an annual Small, Woman-Owned and Minority-Owned (SWAM) business plan to the Department of Minority Business Enterprise (DMBE) and the agency's appropriate cabinet secretary, in a form specified by DMBE, on September 1 of each fiscal year. Each plan shall include the annual designation of a SWAM Champion to ensure nondiscrimination in the solicitation and awarding of contracts. Agencies which have been delegated procurement authority by VITA to conduct IT procurements shall establish internal procedures consistent with the provisions of the VPPA and this manual to facilitate the participation of small businesses in procurement transactions. IT procurement procedures shall be in writing, comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to [§ 2.2-4310\(C\)](#) of the VPPA, and shall include specific plans to achieve any goals established therein (*Code of Virginia*, [§ 2.2-4310\(B\)](#)).

7.1.3 Removal of barriers

VITA will review all VITA-issued IT solicitations prior to release to identify and remove, when possible, any potential barriers to participation by small businesses and small businesses owned by women, minorities and service-disabled veterans. In addition, VITA's annual SWAM plan addresses VITA's ongoing attempts to ensure that all barriers or limitations to the participation of small businesses in IT procurement opportunities have been removed. VITA's small business champion works closely with VITA's procurement personnel to ensure nondiscrimination in sourcing, solicitations and awarding of contracts. Agencies operating

under delegated authority should also review their solicitations to ensure removal of any possible barriers or limitations to small business participation.

7.1.4 Ordering against optional use and mandatory use statewide contracts

Set asides for small businesses do not apply where there is a mandatory use or optional use statewide IT or telecommunications contract established by VITA.

7.1.5 Set-asides for small businesses

The goal of the Commonwealth is that 40 percent of its purchases be made from small businesses. Small businesses include, but are not limited to, DMBE-certified women-minority- and service-disabled veteran-owned businesses that have received DMBE small business certification prior to the due date and time for receipt of bids or proposals. When feasible and in the best interest of the Commonwealth, VITA may consider set-asides for small businesses for procurements greater than \$50,000. VITA will rely on the [DMBE List](#) provided through [eVA](#) to provide those qualified businesses, including DMBE-certified businesses.

- **IT solicitations up to \$5,000 are set aside for small businesses:** A minimum of one quotation from a qualified DMBE-certified small business, if available, is required for IT purchases up to \$5,000, and the award shall be made to that DMBE-certified small business. If more than one quote is solicited, the award will be made to the lowest responsive and responsible qualified DMBE-certified small business bidder. If the agency or institution receives no acceptable bids or offers, the set-aside may be withdrawn and the procurement re-solicited utilizing non-set-aside procedures. If the set-aside is withdrawn and the procurement awarded to other than a DMBE-certified small business, the reason shall be documented in the procurement file using the Small Business Set-Aside Exemption Form (Appendix C).
- **IT solicitations from \$5,000 to \$50,000:** An eVA quick quote will normally be used to solicit bids for IT goods and services (with the exception of telecommunications) for purchases between \$5,000 and \$50,000. If available, four (4) qualified DMBE-certified small business sources should be solicited. If two or more DMBE-certified small businesses cannot be identified as qualified in order to qualify for a set aside, the procurement file shall be documented using the Small Business Set-Aside Exemption Form (Appendix C). An award may be made to a qualified, lowest priced small business bidder that may be other than the lowest bid. If an informal RFP set aside for small business is used in lieu of quick quote, the award may be made to the highest ranking and qualified small business offeror. If the agency or institution receives only one acceptable bid or offer as a result of a set-aside, the award may be made to that bidder or offeror if the price or offer is fair and reasonable. The agency or institution is responsible for determining price reasonableness; refer to chapter 9 of this manual, Determining Fair and Reasonable Pricing. ([insert link](#)). If no acceptable bids or offers are received, the set-aside may be withdrawn and the requirement re-solicited using competitive, non-set-aside, procedures. If the agency or institution is unable to proceed with the planned set-aside for small business, the reason shall be documented in the procurement file using the Small Business Set-Aside Exemption Form (Appendix C).
- **IT solicitations over \$50,000:** Unless delegated by VITA, IT solicitations over \$50,000 shall be conducted by VITA. These procurements may be set aside, in whole or in part, for qualified DMBE-certified small businesses. When there is a reasonable expectation that at least two (2) competitive bids or offers will be received, the solicitation may be appropriate for a set-aside. If these procurements are set aside, a minimum of six (6) qualified DMBE-certified small businesses, if available, shall be solicited. If the agency or

institution receives no acceptable bids or offers, the set-aside may be withdrawn and the requirement re-solicited using competitive, non-set-aside, procedures. The procurement file shall be documented using the Small Business Set-Aside Exemption Form (Appendix C) to indicate that the agency received no acceptable bids or offers, including the reason for the determination.

- **When set asides may not be appropriate:** Some IT solicitations may not be appropriate to set aside if certain factors are present. If there are an insufficient number of DMBE-certified qualified small businesses available to bid on the procurement, a set aside would not be appropriate. There must be two (2) or more qualified DMBE-certified bidders available to foster adequate competition for IT procurements over \$5,000. Also, the size or nature of the procurement may not be conducive to small businesses for the type of product or service being procured. Some procurements may involve a large volume of purchase activity or may require a distribution network that a potential small IT business would not be able to provide. If a significant number of other purchase requests for similar products or services have been selected to be set-aside, an additional set-aside may not be appropriate. In order to protect the best interest of the Commonwealth and to obtain best value IT goods and services, agencies and institutions should not accept an offer that sacrifices price, quality or contractual goals simply to meet agency small business goals.

7.1.6 Award to other than the lowest price bidder or highest ranking offeror over \$50,000

Some solicitations for contracts over \$50,000 may be awarded to a reasonably priced or reasonably ranked DMBE-certified and qualified small business bidder or offeror that is other than the lowest price bidder or highest ranking offeror. The solicitation should state that it is a set aside solicitation and that the award may go to a supplier other than the lowest price bidder or highest ranking offeror. All potential awards to other than the lowest price bidder or highest ranking offeror must be approved in writing by VITA's Director of Finance and Administration or his designee before issuance of such award. In those instances where an award is made to other than the lowest price bidder or highest ranked offeror, the award shall be made to the lowest responsive and responsible bidder or highest ranking, qualified DMBE-certified small business offeror.

7.1.7 Solicitation sizing to encourage small business participation

Agencies or institutions shall work to identify proposed solicitations that may involve bundling and analyze those procurements to gauge their impact on small business suppliers. Agencies and institutions should work to facilitate small, women, service disabled veteran and minority-owned IT supplier participation as suppliers through appropriate contract sizing including the use of small business contract teams and as subcontractors. When appropriate, agencies and institutions may divide potential IT acquisitions into reasonably small lots or packages to permit offers on quantities or services less than the total requirement or project so that more than one small business may perform the work. Delivery schedules should be realistic to encourage small business participation, and solicitations should be worded to encourage prime contractors, when appropriate, to subcontract with small businesses.

7.1.8 Consultation with the Department of Minority Business Enterprise (DMBE) and the Department of Business Assistance (DBA)

Each contracting agency or institution, in consultation with DMBE and VITA where practical, shall seek to identify those purchases in which contract sizing may influence the availability of purchasing opportunities to small business suppliers (a "size-related contract"). Where these purchases are identified, the agency shall determine whether there are a number of

small businesses capable of meeting the purchasing requirements. If the agency identifies no DMBE-certified small businesses capable of performing the contract requirements, then the agency shall consult with DMBE to help identify available suppliers unless contract timing issues require the agency or institution to complete the contract process before DMBE input can be obtained. For any size-related contract for which the agency or institution determines that contract timing issues require contract award without identifying any small business suppliers or consultation with DMBE, the agency or institution may consult with DMBE promptly after award of the contract to develop potential small business suppliers for the next similar procurement. State agencies and institutions shall work together with DMBE and the Department of Business Assistance (DBA) to seek to increase the number of DMBE-certified IT small businesses that are available to do business with the Commonwealth.

7.1.9 Establishing mandatory use statewide contracts

In the event VITA awards a statewide contract for IT goods or services to a qualified DMBE-certified small business, VITA may, at its discretion, make the use of such contract mandatory for state agencies and institutions of higher education, except those explicitly exempted by the *Code of Virginia*. Mandatory contracts are designated as such on VITA's Web site at [VITA Statewide Contract Search](#) and in [eVA](#).

7.1.10 Prime contractor requirements

All solicitations for contracts anticipated to exceed \$100,000 in value will require that the following be included as a contractual requirement of the prime contractor who receives the contract award:

- **Monthly SWAM subcontracting report:** For contracts issued by an executive branch agency or institution under delegated authority from VITA, prime contractors shall submit a monthly subcontracting report according to the requirements provided in their contract. For VITA-issued contracts, the prime contractor should provide the required monthly information using the report template located at [Monthly SWAM Subcontracting Report](#) and submit the report per the instructions tab.
- **Small business subcontracting plan:** Prime contractors shall include a Small Business Subcontracting Plan (see Appendix D) in all proposals. The inclusion of the Small Business Subcontracting Plan may be considered when evaluating each bid or offer. The subsequent monthly reports shall reflect compliance with the small business subcontracting plan, subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default. When such business has been subcontracted to these firms, the contractor agrees to furnish the agency the following information: name of firm, phone number, total dollar amount subcontracted, category type (small; small and women-owned; or small and minority-owned), and type of product/service provided, at the frequency required in the contract. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate remedies may be assessed in lieu of withholding such payment.

7.2 Green procurement

7.2.1 Overview

VITA and the Commonwealth are committed to encouraging the procurement of IT goods and services which use fewer resources, including energy, in order to decrease pollution and energy costs. Such IT goods must also meet all the price and performance requirements of the Commonwealth. VITA has developed procurement guidelines designed to encourage

state agencies and institutions to procure IT products and services which help to minimize the environmental impact from the use and disposal of those products. Computers and other IT products are an important focus of environmentally-friendly purchasing activities due to their high prominence in the waste stream, their numerous hazardous chemical components and their significant energy use. More details about VITA's green procurement objectives are listed in Appendix B. The overall energy costs, as well as the environmentally friendly disposal costs, for IT equipment may be considered in overall lifecycle costs.

7.2.2 Petitioning for less toxic goods or products

Any supplier who manufactures, sells or supplies IT goods or services may petition VITA to include requirements for less toxic goods and services into its procurement process. The supplier shall submit, prior to or during the procurement process, documentation which establishes that the IT goods or products being offered meet the applicable performance standards. If VITA determines that the documentation establishes that the less toxic goods or products meet or exceed the performance standards set forth in the applicable specifications, VITA shall incorporate the specifications for the less toxic goods and products into its procurement process. Agencies procuring IT goods and services under their delegated procurement authority are instructed to revise their procedures and specifications on a continuing basis to encourage the use of less toxic goods and products; however, agencies are not required to purchase, test or evaluate any particular good or product other than those that would be purchased under regular purchasing procedures (*Code of Virginia*, § [2.2-4314](#)).

7.2.3 Procurement of recycled goods and products

VITA and the Commonwealth are committed to the reduction of energy use and waste products through the use of recycled materials. Agencies are encouraged to promote the procurement and use of recycled goods. Through its programs the Department of Environmental Quality will assist agencies in increasing agency awareness of the benefits of using such products. Agencies shall, to the greatest extent possible, adhere to any recycled products procurement guidelines established by VITA (*Code of Virginia*, § [2.2-4323\(C\)](#)).

7.2.4 Agency guidelines

VITA has developed the following guidelines to assist IT procurement professionals in identifying IT suppliers and IT goods and services which have demonstrated product improvement on key environmental attributes and initiatives. Nothing in these guidelines shall be construed as requiring the Commonwealth, VITA or any executive branch agency or institution or supplier to procure IT products or services that do not perform adequately for their intended use or are not available at a reasonable, competitive price in a reasonable period of time:

Attribute	Guideline
Manufacturer "take back" of equipment	This can be accomplished through a lease or a contractual provision whereby the seller agrees to be responsible for taking back the products and providing for appropriate re-use or recycling when the buyer no longer needs the product.
Reduction of toxic components	IT good manufacturers must demonstrate they are complying with the European Union's Directive – Restriction of Hazardous Substances – which requires the phase out of lead, mercury, hexavalent chromium, cadmium and certain brominated flame retardants (PBBs and PBDEs).
Increased recycled content	Purchasing consideration should be given to IT products that use recycled content and products that can easily be recycled.
Reduced packaging	IT suppliers should be encouraged to use reduced and/or recycled packaging for shipping, to minimize quantity and weight of non-recyclable

	packaging and to produce user manuals that are easily recyclable.
Shelf life and supportability	IT goods should be evaluated on upgradeability and longevity to avoid short replacement cycles and reduce waste.
Energy efficiency	<p>IT suppliers should be encouraged to produce equipment that meets Energy Star specifications including:</p> <ul style="list-style-type: none"> • Offer equipment which meets the current U.S. Environmental Protection Agency's and Department of Energy's Energy Star guidelines. • Equipment shall be configured so it automatically enters a low-power mode after a period of inactivity. When equipment in a low-power mode is used again, it automatically returns to active mode. • Computers shall be shipped with power management feature enabled. • Provide integrated computer systems, where the CPU and monitor will together enter a low-power mode of no more than 45 watts after a specified period of inactivity. • Deliver all products configured for automatic energy-saving features per current Energy Star specifications.
Clean manufacturing practices	Identify and encourage IT suppliers who minimize the use of toxic and hazardous components in their manufacturing and production processes.
Design for reuse and recycling	Identify and reward suppliers of IT products that use recycled content and produce goods that can easily be recycled. At a minimum, IT manufacturers should be encouraged to comply with the European Union's WEEE Directive, which requires manufacturers to recycle or reuse more than half of their old equipment on the market by 2006.

7.3 Preferences

In order to protect the viability of Virginia's businesses, promote recycling and other important social or economic initiatives or goals, the Virginia General Assembly has enacted statutory preferences for Virginia products with recycled content, for Virginia firms in the case of a tie bid with a non-state firm, for recycled paper and paper products used by state agencies and for local products and firms. There are other statutory preferences outlined in the *Code of Virginia*; however, they are not directly related to the procurement of IT goods and services. These preferences are to be used by agencies and institutions in solicitations and contract awards, when appropriate. [§2.2-4324\(A\)](#) of the *Code of Virginia* provides that in the case of a tie bid between a Virginia supplier and a non-Virginia supplier, preference shall be given to goods or services provided by Virginia persons, firms or corporations. Whenever the lowest bidder is a resident of another state which allows a preference for its state suppliers, a like preference will be allowed to the lowest Virginia-based bidder. If the lowest bidder is based in a state with an absolute preference, that bid will not be allowed. DGS is charged with maintaining a list of states with absolute preferences on its [Web site](#).

Appendix A

VITA's Ongoing Small Business Initiatives

VITA is aligned with the Commonwealth in its dedication to provide maximum practicable opportunities to small businesses in its acquisitions. Small businesses must also have the opportunity to participate as subcontractors for prime contractors who receive contract awards from VITA or any Commonwealth agency. VITA is committed to support and encourage the participation of small businesses through implementing the following initiatives:

- VITA will identify and reach out to potential small businesses including small IT businesses owned by women-, minority- and service disabled veterans. VITA will assist these businesses, if needed, with DMBE-certification, eVA registration and provide education on VITA's procurement procedures.
- VITA's small business outreach specialist will provide assistance to small, women-, minority- and service disabled veteran-owned IT businesses in preparing eVA catalogs to enable state agencies and other public bodies to purchase from these suppliers.
- All solicitations will promote collaboration with and use of with small, women-, minority- and service disabled veteran-owned IT businesses in providing IT goods and services to the Commonwealth.
- VITA will provide procurement outreach and educational opportunities for all small businesses. Such opportunities will include, but not be limited to the following:
 - Coordinate with DMBE, DGS and DBA for small, minority-, women- and service disabled veteran-owned business-related seminars and/or fairs for consistent, statewide communications;
 - Host one and participating in other IT-related procurement fairs;
 - Meet with small, women-, minority- and service disabled veteran-owned IT supplier organizations for input and perspective;
 - Develop and facilitate a small business IT supplier procurement advisory committee comprised of such businesses to assist VITA in enhancing opportunities for small IT businesses;
 - Engage and educate internal sourcing consultants and purchasing specialists regarding small, women-, minority- and service disabled veteran-owned business policies and practices;
 - Update and maintain an internal and external accessible web site for small businesses and small businesses owned by women-, minority- and service disabled veteran-owned IT suppliers;
 - Maintain e-mail and other direct communications channels for small, women-, minority- and service disabled veteran-owned business related inquiries to VITA;
 - Participate in IT procurement planning to determine where sourcing with small businesses and small businesses owned by women-, minority- and service disabled veteran-owned IT suppliers may be appropriate;
 - Include and implement solicitation and contractual provisions related to the use of and spend reporting of small businesses as subcontractors.

VITA's procurement professionals play an integral role in improving the participation of these businesses in the Commonwealth's IT procurement processes. In order to facilitate an increase in access and participation by this business community in VITA's procurements, VITA will post subcontract opportunities and provide directions on how such businesses can qualify or compete for them. VITA will assist these suppliers in identifying the business

opportunity, any qualification or prequalification requirements for subcontractors and where to obtain technical data needed to successfully respond to the subcontract opportunity. VITA will work with the Commonwealth's small IT and telecommunications businesses to increase participation in solicitations and to increase the number of contracts awarded. VITA's procurement guidelines will provide for increasing small business participation on VITA's small procurements (up to \$50,000) through a set-aside program for small businesses and for the implementation of other small business enhancement tools. VITA will promote greater representation of small businesses on all IT contracts through actively recruiting SWAM businesses to bid on statewide cooperative procurement agreements and/or contracts that are open for competition. Whenever practical, VITA will post upcoming solicitations on the [eVA Future Solicitations](#) page to enable small businesses to prepare potential bids or proposals.

A supplier which is a small business but which is not yet certified with DMBE must receive certification prior to award: <http://www.dmb.virginia.gov>. DMBE-certified women-, minority- and service disabled veteran-owned businesses shall also be considered small businesses when they have received DMBE small business certification.

In 2006, Governor Kaine issued [Executive Order 33](#) in which he stressed the importance of the Commonwealth of Virginia maximizing the participation of its citizens in the vast array of commercial opportunities in state procurement. EO33 emphasizes that for Virginia to remain competitive, the Commonwealth must ensure that all businesses have an equal opportunity to share in state procurement. As part of this Executive Order, Governor Kaine directed all executive branch entities to implement certain initiatives. These directives are not intended in any way to limit the application of additional creativity at the agency level, but are designed to promote economic justice and eliminate impediments to a more equitable procurement process.

Appendix B

VITA's Green Procurement Objectives

In order to support and increase environmentally friendly or "green procurement" for the purchase of IT goods and services across the Commonwealth, VITA and its Supply Chain Management Division (SCM) are committed to achieving the following objectives:

- Educate all VITA procurement staff on the requirements of federal "green" procurement programs.
- Create and publicize opportunities to purchase environmentally-friendly, energy-saving or "green" IT products and services for the Commonwealth.
- Increase purchases of "green" IT products and services consistent with VITA's mission.
- Reduce the amount of solid waste generated from VITA-procured IT products. VITA and its customer agencies will review how IT supplies, materials and equipment are manufactured, purchased, packaged, delivered, used and disposed in order to reduce the amount of solid waste produced.
- Encourage VITA's IT suppliers to offer high quality, environmentally sound and environmentally preferable IT products and services to the Commonwealth at competitive prices.
- Encourage VITA's IT service providers to consider environmental impacts of service delivery.
- Encourage recycling, market development and use of recycled/recyclable materials through contractual relationships and purchasing practices with the Commonwealth's IT suppliers, contractors, businesses and other governmental agencies.
- Encourage the procurement of IT goods and services which reduce the consumption of energy and natural resources.
- Expand markets for environmentally-friendly and energy-saving IT products and services within the Commonwealth.
- Develop specifications and requirements aimed at eliminating barriers to the procurement of recycled-content IT products.
- Develop and maintain market information about environmentally sound and preferable IT products and recycled IT products which are available to be purchased by VITA, executive branch agencies and institutions whenever possible.
- Serve as a model for the Commonwealth to influence IT waste prevention, recycling and energy-saving procurement efforts.

Appendix C
Small Business Set-Aside Exemption Documentation



**Small Business Set-Aside Exemption
Documentation**

Today's Date _____
Agency/Institution Name _____
Contact Name _____
Telephone Number _____

PROCUREMENT DETAILS:

Description of Product or Non-Professional Service _____
Estimated Cost of Procurement \$ _____
Applicable Commodity Code _____

JUSTIFICATION:

Describe how your agency attempted to locate small businesses in order to set aside this procurement.

Explain why your agency did not set aside this procurement.

Signed _____
(Contracting Officer)

Appendix D
Small Business Subcontracting Plan

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) by the contract award date to participate in the SWAM program. Certification applications are available through DMBE online at www.dmbv.virginia.gov.

Offeror Name: _____

Preparer Name: _____ Date: _____

Instructions

A. If you are certified by the DMBE as a small business, complete only Section A of this form. This shall not exclude DMBE-certified women, minority or service-disabled veterans-owned businesses when they have received DMBE small business certification.

B. If you are not a DMBE-certified small business, complete Section B of this form.

Section A

If your firm is certified by the DMBE, are you certified as a (**check only one below**):

- _____ Small Business
_____ Small and Women-owned Business
_____ Small and Minority-owned Business
_____ Small Service Disabled Veteran-owned Business

Certification Number: _____

Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall not exclude DMBE-certified women, minority or service disabled veteran-owned businesses when they have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M) Service-Disabled Veteran (D)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract

